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PERKINS COIE LLP  
PATENT-SEA  
P.O. BOX 1247  
SEATTLE, WA 98111-1247

EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/738,169

Applicant(s)

PHATAK, ANIRUDHA

Examiner

Siegfried E. Chencinski

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **1. OBJECTION**

#### **a) *Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

Art Unit: 3628

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Applicant's disclosure lacks item (f) – Brief Summary of the Invention and section (e) (2) a summary of the need perceived by applicant to motivate this invention at the end of this section.

The Office Expects Applicants to arrange their specification in the above format according to 37 CFR 1.77(b). The purpose is the presentation of a clear disclosure of an invention to the ordinary practitioner who may read it.

Correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**2. Claims 13 & 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Stipanovich (US Patent 5,117,353).**

**Re. Claim 13**, Stipanovich discloses a method in a computer system for evaluating a resource, the resource having attributes, each attribute having a resource value, the method comprising:

- identifying target values for each attribute (Col. 7, l. 52 – Col. 8, l. 13);

Art Unit: 3628

- for each attribute, generating an attribute match rating indicating how well the corresponding resource value matches the corresponding target value (Col. 8, l. 63 – Col. 10, l. 42); and
- combining the generated attribute match ratings to generate an overall match rating for the offered resource (Col. 8, l. 63 – Col. 10, l. 42).

**Re. Claim 15**, Stipanovich discloses a method of claim 13 wherein the resource is offered at a reverse auction (Col. 1, ll. 19-40; Col. 2, ll. 61-62; col. 3, ll. 9-14).

**Re. Claim 16**, Stipanovich discloses the method a method of claim 13 wherein the attributes include skills of a person (Col. 8, l. 63 – Col. 10, l. 42 (e.g. Col. 10, l. 23)).

**Re. Claim 17**, Stipanovich discloses the method of claim 13 wherein the attributes include rate of a person (Col. 12, ll. 40-46; Fig. 9).

**Re. Claim 18**, Stipanovich discloses the method of claim 13 wherein the attributes include availability of a person (Col. 9, ll. 1-11. Stipanovich's method is a reservation date method which establishes a date up to which a candidate will be available for evaluation by a prospective employer).

**Re. Claim 19**, Stipanovich discloses the method of claim 13 wherein the attributes include reservation of a person (Col. 9, ll. 5-15).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 1-3, 5 & 24 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Gustafson (US Patent 5,659,731) in view of Carlton-Foss (6,647,373).

**Re. Claim 1**, Gustafson discloses a method in a computer system for selection of a resource, the method comprising:

Art Unit: 3628

- providing a resource requirement indicating target attributes of a target resource (Col. 3, ll. 37 – 50; Gustafson's resource requirements are the list of data needing to be confirmed through matching, such as address, and a credit score derived from a list of criteria and a formula);
- for each offered candidate resource, generating a plurality of fitness ratings, each fitness rating indicating how well a candidate attribute of the candidate resource matches a target attribute of the target resource (Abstract, ll. 6-9; Col. 3, ll. 48-50);
- for each offered candidate resource, combining the plurality of fitness ratings using weighting factors to generate a match rating (Gustafson is aware of and uses weighting factors, such as in Col. 2, l. 66 – Col. 3, l. 11; Col. 10, l. 40); and
- selecting a candidate resource based on the generated match ratings (Title, Abstract).

Gustafson does not explicitly disclose receiving a plurality of offers to provide a candidate resource, each candidate resource having candidate attributes. However, Carlton-Foss discloses receiving a plurality of offers to provide a candidate resource, each candidate resource having candidate attributes (Col. 1, l. 55; Col. 2, ll. 32, 55; Col. 13, l. 8. Carlton-Foss discloses offers for goods and services between buyers and sellers conveyed electronically, including in an electronic matching system.). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Gustafson with that of Carlton-Foss in order to expand Gustafson's matching method with Carlton-Foss's method of offers of goods and services in order to provide an expanded computer operated automatic method of matching resource requirements with offered resources.

**Re. Claim 2**, Gustafson discloses the method of claim 1 including receiving the resource requirement from a consumer of the resource (Abstract, l.1. The user is the requestor who will consume the resource, which is information, as is the case with Applicant's claimed invention).

Art Unit: 3628

**Re. Claim 3,** Gustafson does not explicitly disclose the method of claim 1 wherein the offers are received from suppliers of candidate resources. However, Carlton-Foss discloses a method wherein the offers are received from suppliers of candidate resources (Col. 1, ll. 54-56). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Gustafson and Carlton-Foss in order to expand Gustafson's matching method with Carlton-Foss's method of offers of goods and services in order to provide an expanded computer operated automatic method of matching resource requirements with offered resources.

**Re. Claim 5,** Gustafson does not explicitly disclose the method of claim 1 wherein the computer system is a server connected to the Internet. However, Carlton-Foss discloses a method wherein the computer system is a server connected to the Internet (Col. 7, lines 6-17). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Gustafson and Carlton-Foss in order to expand Gustafson's matching method with Carlton-Foss's explicit disclosure of the use of server computers in order to provide an expanded computer operated automatic method of matching resource requirements with offered resources.

**Re. Claim 24,** Gustafson does not explicitly disclose the method of including ranking the candidate resources. However, Carlton-Foss discloses the method of including ranking the candidate resources (Fig. 11, Fig. 15). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Gustafson and Carlton-Foss in order to expand Gustafson's matching method with Carlton-Foss's explicit disclosure of the use of server computers in order to provide an expanded computer operated automatic method of ranking the received offers of personal services using a plurality of criteria and to electronically provide resulting information to requestors (Carlton-Foss, Col. 3, ll. 1-3).

**4. Claim 4 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Gustafson in view of Carlton-Foss and further in view of Stipanovich.

**Re. Claim 4,** Gustafson does not explicitly disclose the method of claim 1 wherein the resources are people and the attributes include skills of the person and hourly rate.

Art Unit: 3628

However, Stipanovich discloses a method wherein the resources are people and the attributes include skills of the person and hourly rate (Person Skills – Col. 8, l. 63 – Col. 10, l. 42 (e.g. Col. 10, l. 23); Hourly Rate - Col. 12, ll. 40-46; Fig. 9). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Gustafson and Carlton-Foss with that of Stipanovich in order to provide automatic matching and exchange of resource requirement data regarding hourly skilled workers with offered resources.

**5. Claims 6-12 & 25 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Carlton-Foss in view of Stipanovich and McGovern et al. (US Patent 5,978,768).

**Re. Claim 6**, Carlton-Foss discloses a method and system in a computer system for conducting a reverse auction for services of people (Col. 2, ll. 61-62), the method comprising:

- receiving a plurality of offers (Fig. 5);
- selecting an offered person based on the match ratings (Col. 1, ll. 28-36; Col. 6, l. 66 – Col. 7, l. 4. The Examiner's personal recruiting and job application experience during the 1883 – 2001 period as both an employer and employee indicates that personal meetings and related personal negotiations of semi-finalists and finalists is the predominant practice in job candidate selections by employers and agencies, especially for positions above the clerk or factory floor level).

Carlton-Foss does not explicitly disclose

- receiving an indication of requirements of a person from a consumer of services;
- advertising the indicated requirements;
- receiving a plurality of offers to provide a person;
- generating a match rating for each offered person indicating how well that person meets the requirements.

However, Stipanovich discloses



Art Unit: 3628

- receiving an indication of requirements of a person from a consumer of services (Fig. 4; Col. 7, ll. 41-43);
- receiving a plurality of offers to provide a person (Col. 8, l. 20 – Col. 10, l. 42).  
The workers registered with the agency are multiple offerers to the agency. It would have been obvious to the ordinary practitioner at the time of Applicant's invention to have applied Stipanovich's disclosure of a system made for an agency's use to a method and system made for the employer's recruiting and screening of employment applicants.
- generating a match rating for each offered person indicating how well that person meets the requirements (Col. 9, ll. 12-19). It is obvious to use the matching method used by the agency in a matching system used by the employer.

McGovern et al. disclose advertising the indicated requirements (Col. 2, l. 65 – Col. 3, l. 5). There is a great amount of interplay between employers, employment agencies and job seekers. Agencies often bid on jobs which an employer only advertised to the general public. Some employers will give a job requirement to one or more agencies while also advertising the position, and others will only give the job requirement to a selection of agencies. An increasing percentage of employers have been posting their job requirements on their own web sites during the 1990's while concurrently engaging in any combination of the above recruiting activities. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss with that of Stipanovich and McGovern in order to provide a more efficient automated, computer driven system for matching employer worker resource requirements and worker job needs through a reverse auction system.

**Re. Claim 7,** Carlton-Foss and McGovern do not explicitly disclose the method of claim 6 including selecting multiple offered persons based on the match ratings. However, Stipanovich discloses a method of selecting multiple persons based on the match ratings (Col. 9, ll. 12-19). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss and

Art Unit: 3628

McGovern with that of Stipanovich to improve the efficiency of an employer's candidate screening process.

**Re. Claim 8**, Carlton-Foss and McGovern do not explicitly disclose the method of claim 6 wherein the requirements includes skills. However, Stipanovich discloses a method wherein the requirements includes skills (Col. 8, l. 63 – Col. 10, l. 42 (e.g. Col. 10, l. 23)). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss and McGovern with that of Stipanovich to improve the efficiency of an employer's candidate screening process.

**Re. Claim 9**, Carlton-Foss and McGovern do not explicitly disclose the method of claim 6 wherein the requirements include start date. However, Stipanovich discloses a method wherein the requirements include start date (Col. 9, ll. 5-10). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss and McGovern with that of Stipanovich to improve the efficiency of an employer's candidate screening process.

**Re. Claim 10**, Carlton-Foss and McGovern do not explicitly disclose the method of claim 6 wherein the requirements includes reservation date. However, Stipanovich discloses candidate screening software which includes a candidate's availability or match time window for a position which has a fixed start date (Col. 9, ll. 5-15).

Stipanovich's method is a reservation date method which establishes a date up to which a candidate will be available for evaluation by a prospective employer). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss and McGovern with that of Stipanovich to improve the efficiency of an employer's candidate screening process by adopting Stipanovich's reservation date method.

**Re. Claim 11**, Carlton-Foss and McGovern do not explicitly disclose the method of claim 6 wherein the requirement includes pricing information. However, Stipanovich discloses a method wherein the requirement includes pricing information (Col. 8, ll. 9-10). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss and McGovern with that

Art Unit: 3628

of Stipanovich to improve the efficiency of an employer's candidate screening process by adopting Stipanovich's reservation date method.

**Re. Claim 12,** Carlton-Foss and McGovern do not explicitly disclose the method of claim 6 wherein the generating of the match rating includes identifying how closely a person matches each requirement. However, Stipanovich discloses a method wherein the generating of the match rating includes identifying how closely a person matches each requirement (Col. 8, l. 66 – Col. 10, l. 42). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss and McGovern with that of Stipanovich to improve the efficiency of an employer's candidate screening process by adopting Stipanovich's reservation date method.

**Re. Claim 25, Carlton-Foss discloses** the method of including publishing the match ratings and permitting competitive bidding. (Col. 3, 2-3).

**6. Claim 14 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Stipanovich in view of Carlton-Foss.

**Re. Claim 14,** Stipanovich does not explicitly disclose the method of claim 13 wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating. However, Carlton-Foss discloses a method wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating (Col. 11, ll. 21-23). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Stipanovich with that of Carlton-Foss to improve the efficiency of a worker screening process by adopting Carlton-Foss' method of employing weight factors to each attribute matching element in order to improve the quality of the matching process by ranking received reverse auction bids using a plurality of criteria and to electronically provide resulting information to the user of the system (Carlton-Foss, Col. 3, ll. 1-3).

**7. Claims 20-23 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Carlton-Foss in view of McGovern and Stipanovich.

Art Unit: 3628

**Re. Claim 20**, Carlton-Foss discloses a computer system for coordinating the providing of resources, comprising:

- an auction component that receives resource requirements, that receives a description of a resource, that places a bid to provide the resource, that generates a match rating for each of the resources; and that selects those resources that most closely match the received resource requirements (Auction - Col. 2, ll. 61-62; Col. 3, ll. 9-13. Receives requirements – Col. 3, l. 20-23; Col. 5, ll. 63-65. Receives a bid – Col. 3, ll. 16, 26; Match rating – means/Col. 3, l. 34, process/fig. 11, Display system/Fig. 15; Selection of closest matches – Col. 1, ll. 23-29; Col. 6, l. 66 – Col. 7, l. 4); an interview component that coordinates the interviewing of the selected resource by the provider of the resource requirements (Col. 1, ll. 30-32);
- a selection component that coordinates the selection of an interviewed resource (Col. 6, ll. 56-60; Col. 1, ll. 30-36); and

Carlton-Foss does not explicitly disclose

- advertising the received resource requirements;
- which includes an accounting component that coordinates the submitting of bills provided by the selected resource.

McGovern discloses a method that advertises the received resource requirements (Col. 2, l. 65 – Col. 3, l. 5.). Stipanovich discloses an accounting component that coordinates the submitting of bills provided by the selected resource (Col. 12, l. 62 – Col. 13, l. 21).

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss with that of McGovern and Stipanovich in order to provide a more efficient automated, computer driven system for matching resource requirements and bidders' desire to provide resources for **Re.**

**Claim 21**, Carlton-Foss discloses a computer system of claim 20 wherein the computer system is a web server (Fig. 2).

**Re. Claim 22**, Carlton-Foss and McGovern do not explicitly disclose the computer system of claim 20 wherein the resources are services of people. However, Stipanovich

Art Unit: 3628

discloses a computer system wherein the resources are services of people (Col. 2, ll. 3-8). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss and McGovern with that of Stipanovich to improve the efficiency of an employer's personnel recruiting process by adopting Stipanovich's electronic computer automated worker hiring system for improved hiring efficiency and lower cost operation.

**Re. Claim 23**, Carlton-Foss discloses a computer system of claim 20 wherein the auction component rates how closely a resource matches the resource requirements (Col. 10, l. 57 – Col. 13, ll. 14).

### ***Response to Arguments***

8. Applicant's arguments regarding claims 1 through 25 filed July 27, 2004 have been fully considered but they are not persuasive.

**Re. claims 1-5**, as cited in the above rejection statements, Gustafson teaches the newly amended and added claim limitations of "for each offered candidate resource, generating a plurality of fitness ratings, each fitness rating indicating how well a candidate attribute of the candidate resource matches a target attribute of the target resource" (Abstract, ll. 6-9; Col. 3, ll. 48-50); and "for each offered candidate resource, combining the plurality of fitness ratings using weighting factors to generate a match rating (Gustafson is aware of and uses weighting factors, such as in Col. 2, l. 66 – Col. 3, l. 11; Col. 10, l. 40). In other words, contrary to Applicant's assertion on p. 9, ll. 19-20, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to determine that Gustafson teaches "generating a match rating by combining a plurality of fitness ratings using weighting factors" based on Gustafson's generic summary of his teaching in the Abstract, and the more specific descriptions in the above locations and throughout his patent.

#### **Re. claims 6-12:**

(a) Contrary to Applicant's assertion on p. 9, l. 23 through p. 10, l. 16, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have seen the obvious application of Stipanovich's teaching to suggest the

Art Unit: 3628

limitation "generating a match rating for each offered person indicating how well that person meets the requirements" (Arguments, p. 9, ll. 25-28).

(b) Applicant further argues that "applicant can find in Carlton-Foss, Stipanovich and McGovern no such disclosure or suggestion" (Argument, p. 10, ll. 15-16). The Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 509 F.2d 566, 184 USPQ 607, (CCPA 1975). However, numerous court decisions have reinforced the idea that the most important consideration in the establishment of a case of obviousness an obviousness combination is what an ordinary practitioner of the art would find obvious at the time of Applicant's invention. Here are two examples of such court decisions: **Case A:** There is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971). **Case B:** *In re. Bozek* ... and references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 9ccpa) 1969). In this case, Stipanovich's teaching is based on the same worker services/temporary/contract employment industry as that of Applicant's invention. Further, Applicant has not chosen in the specification the option to be his own lexicographer, instead merely giving matching and match rating examples for a number of embodiments in the specification. In order to be bound by a narrow definition of a term, the specification must specifically define a term or step in a narrow, limited way which is consistent with the general understanding of the terms being used, i.e. meaning that Applicant's specification must invoke the right to be his own lexicographer, which automatically keeps the meaning narrow. To quote MPEP ¶ 7.34.02: "Terminology Used Inconsistent with Accepted Meaning Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that

Art Unit: 3628

claim term (underlining added). Process Control Corp. v. HydReclaim Corp., 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999)". Lacking such narrow terms definition, "the examiner is obligated to give claims their broadest reasonable interpretation, in light of the specification, and consistent with the interpretation that those skilled in the art would reach (MPEP § 2111)". Furthermore, the words of a claim must be given their "plain meaning", as interpreted by one of ordinary skill in the art, unless the words are clearly defined in the specification (MPEP § 2111.01)). Hence, in this case, the obviousness case is applicable for the ordinary practitioner who might have become aware of Stipanovich's teaching at the time of Applicant's invention, namely to interchangeably use the matching system, whether on the part of an employer or a third party such as a middle man, agent or agency.

Further, Applicant's argument on p. 10. II. 10 – 14 also lacks merit, first, because Applicant does not claim a match rating "derived by summing the weighted fitness ratings for the required and desirable attributes". Secondly, as noted above, "the test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971)". It is in the combining of the cited teachings in which the ordinary practitioner finds all of Applicant's claimed invention in this set of claims. This includes the nuances claimed by Applicant in claims 6-12, especially the limitations of claim 6. Applicant's claim 6 limitation of "generating a match rating for each offered person indicating how well that person meets the requirements" is easily seen by the ordinary practitioner of the art, as stated in the rejection. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Carlton-Foss with that of Stipanovich and McGovern in order to provide a more efficient automated, computer driven system for matching employer worker resource requirements and worker job needs through a reverse auction system.

**Re. Claim 13**, Stipanovich discloses a method in a computer system for evaluating a resource, the resource having attributes, each attribute having a resource value, the method comprising:

- identifying target values for each attribute (Col. 7, l. 52 – Col. 8, l. 13);

Art Unit: 3628

- for each attribute, generating an attribute match rating indicating how well the corresponding resource value matches the corresponding target value (Col. 8, l. 63 – Col. 10, l. 42); and
- combining the generated attribute match ratings to generate an overall match rating for the offered resource (Col. 8, l. 63 – Col. 10, l. 42).

**Re. Claim 14**, Stipanovich does not explicitly disclose the method of claim 13 wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating. However, Carlton-Foss discloses a method wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating (Col. 11, ll. 21-23). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Stipanovich with that of Carlton-Foss to improve the efficiency of an employer's candidate screening process by adopting Carlton-Foss' method of employing weight factors to each attribute matching element in order to improve the quality of the matching process.

**Re. Claims 13-19**, (Col. 8, l. 63 – Col. 10, l. 42). Applicant's argument is confined to one element each of claims 13 and 14, particularly focusing on weighted fitness rating.

(a) **Re. Claim 13**, Applicant argues that the claim limitation "for each attribute, generating an attribute match rating indicating how well the corresponding resource value matches the corresponding target value" means that the match rating is "derived by summing the weighted fitness ratings for the required and desired attributes". This is not the reasonable and broadest interpretation required to be taken from this claim limitation language as outlined above in the review of the rules requiring broad claims interpretation. In fact, this interpretation is not even suggested by the claim language, although it is a theoretical possibility. This point is further demonstrated in that Applicant chose to file claim 14 as dependent on claim 13, which claims "a method wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating". The limitation of claim 14 would be moot if claim 13 were to specify weighted fitness ratings. Claim 13 does not do so, allowing claim 14 to further



Art Unit: 3628

limit claim 13. Further, it is reasonable to broadly interpret Stipanovich to be teaching "for each attribute, generating an attribute match rating indicating how well the corresponding resource value matches the corresponding target value". The two step process taught by Stipanovich as detailed in Col. 8, l. 63 – Col. 10, l. 42 results in generating the claimed attribute match rating. The claims language permits match ratings such as simple as 'yes and no' and 'zero or one', or more complex rating schemes. Stipanovich teaches a two step process, with step one being a simple exact match and step two being a near match having an open number of variables. Stipanovich permits many variations to the implementer of his parameters.

(b) **Re. Claim 14**, Applicant's argument that Stipanovich and Carlton-Foss do not teach, disclose or suggest "a method wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating" is not contrary to the teachings of these two references taken in combination, as stated in the rejection of this claim element and of the entire claim. It must again be noted that the interpretation standard is what an ordinary practitioner of the art would find obvious from the combination of the two references. Stipanovich does not explicitly disclose the method of claim 13 wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating. However, Carlton-Foss discloses a method wherein the combining of the generated attribute match ratings includes applying a weight factor to each attribute match rating (Col. 11, ll. 21-23). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Stipanovich with that of Carlton-Foss to improve the efficiency of a worker screening process by adopting Carlton-Foss' method of employing weight factors to each attribute matching element in order to improve the quality of the matching process by ranking received reverse auction bids using a plurality of criteria and to electronically provide resulting information to the user of the system (Carlton-Foss, Col. 3, ll. 1-3).

**Re. Claims 20-23**. Applicant confines his argument to the newly added claim limitation "that generates a match rating for each of the resources" (p. 11, ll. 5-12), which Applicant argues is not disclosed, suggested or taught in the combination of

Art Unit: 3628

Carlton-Foss, McGovern and Stipanovich. On the contrary, as stated in the above rejection, Carlton-Foss teaches this limitation in the following steps: Match rating – means/Col. 3, l. 34 (“evaluation means for ranking bids received”), process/Fig. 11, Display system/Fig. 15 (which shows a rating, in this particular screen shot in descending order).

**Re. Claims 34 & 25.** Applicant argues that these two new claims “are allowable on the same basis as claims 1 and 6. First of all, as stated in the rejections of claims 1 and 6 and in the above reply to arguments, it must be pointed out that it is the examiner’s opinion that claims 1 and 6 are not allowable. Secondly, claims 24 and 25 are rejected as well using the same specific prior art teaching elements as have been applied to the similar limitations found in claims 1 and 6.

**Re. Claim 24,** Gustafson does not explicitly disclose the method of including ranking the candidate resources. However, Carlton-Foss discloses the method of including ranking the candidate resources (Fig. 11, Fig. 15). It would have been obvious to an ordinary practitioner of the art at the time of Applicant’s invention to have combined the art of Gustafson and Carlton-Foss in order to expand Gustafson’s matching method with Carlton-Foss’s explicit disclosure of the use of server computers in order to provide an expanded computer operated automatic method of ranking the received offers of personal services using a plurality of criteria and to electronically provide resulting information to requestors (Carlton-Foss, Col. 3, ll. 1-3).

**Re. Claim 25, Carlton-Foss discloses** the method of including publishing the match ratings and permitting competitive bidding. (Col. 3, 2-3).

### ***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3628

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is 703-305-6199. The Examiner can normally be reached Monday through Friday, 9am to 6pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hyung S. Sough, can be reached on 703- 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

*Commissioner of Patents and Trademarks Washington D.C. 20231*

or faxed to:

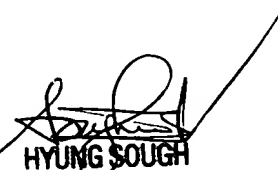
(703)872-9306 [Official communications; including After Final communications labeled "Box AF"]

(703) 746-9601 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2411 Crystal Drive, Arlington, VA, 7th floor receptionist.

SEC

November 12, 2004

  
HYUNG SOUGH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600